

1974 WL 27145 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

December 9, 1974

***1 Re: S. C. Mining Act.**

Jack S. Whisnant
Geologist
Department of Mining & Reclamation
Land Resources Conservation Commission
Post Office Box 11708
Columbia, SC 29211

Dear Mr. Whisnant:

You have requested that this Office advise you if the Mining Act applies to mines less than one acre in size, or does the one-acre exemption apply only to exploration activities. You further requested that this Office advise you as to whether a surety bond may be less than that as set forth in Section 63-713 Code of Laws of South Carolina, 1962, as amended.

It is clear that the definition of mining, as set forth in 63-713, is not restricted to mines less than one acre in size. Applying this definition to the legislative requirement for a permit in Section 63-714, it is apparent that there is no exemption from the Mining Act for mines of less than one acre in size.

In answer to your second question, it is clear under the basic premises of statutory construction that a legislative enactment clear in its wording, can not be deviated from by the administrative agency charged with its enforcement. Accordingly, the amount of the surety bond as set forth in Section 63-713, can not be changed by the Department of Land Resources Conversation Commission. It is a mandatory requirement, and no deviation is allowed under the applicable law.

I trust this has been sufficient in answering the questions which you posed. If we can be of any further assistance, please do not hesitate to call or write.

Very truly yours,

Timothy G. Quinn
Senior Assistant Attorney General

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